



Rocco B. Commisso
Chairman and Chief Executive Officer

April 18, 2013

Chairman Jay Rockefeller
Senate Commerce Committee
531 Hart Senate Office Building
Washington, DC 20510

via Facsimile: 304-347-5371
and U.S. Mail

and

Ranking Member John Thune
Senate Commerce Committee
511 Dirksen Senate Office Building
Washington, DC 20510

via Facsimile: 202-228-5429
and U.S. Mail

Dear Chairman Rockefeller and Ranking Member Thune:

With the recent announcements that Chairman Genachowski and Commissioner McDowell are leaving the Federal Communications Commission, the administration will soon be nominating replacements. I am writing to urge you to seek commitments from the individuals selected to lead and serve on the Commission that they will protect American consumers by promptly addressing the broken video programming marketplace.

The rules governing the video marketplace – most of which date back to 1992 – do not reflect current market conditions. A perverse and unintended effect of these outdated rules is that the emergence of vigorous competition at the retail level is actually causing consumer prices to increase rather than decrease. This is because the owners of “must-have” programming are immune from competition while cable, satellite and phone companies vigorously compete with each other. This allows programmers to play distributors against each other, driving up programming costs and, ultimately, consumer prices. Like my blood pressure whenever I negotiate with the programmers, prices distributors pay for programming only go in one direction: Up. At a time when most Americans continue to struggle in the aftermath of the recession, these increases are, in the words of one analyst, “a train wreck in the making.”

I have repeatedly expressed my concerns regarding the perilous state of the video marketplace in formal and informal communications with Chairman Genachowski and his predecessor, Chairman Martin. I have publicly explained that Mediacom does not want to raise video prices every year, but we are forced to do so because programming costs continue to dramatically escalate. For the past 5 years, Mediacom has paid every dollar of our video price increases to the programmers. Over that same time period, our video margins have actually shrunk because we have not passed through our full cost increases to our customers. These practices are not only pricing video services out of the reach of many consumers, but are also limiting the resources available to cable companies for measures that could help to increase broadband availability and penetration.

Frustrated by the Commission's refusal to formally act to fix the broken video marketplace, I have tried to find an industry solution that the Commission could support. For example, I have twice offered to freeze the rates Mediacom charges for its most popular video service tiers if the programmers agreed to "freeze" their wholesale prices, and I asked the Chairman to back that proposal publicly. Unfortunately, instead of taking even this informal action to protect American consumers from the effects of unchecked increases in sports programming fees, extortionate demands for retransmission consent payments, and coercive wholesale bundling tactics, the Commission has elected to do nothing. In the absence of pressure from the Commission, not a single programmer took me up on my price freeze offers.

The failure of the Commission to act on these matters of importance to consumers is unconscionable. It has been over five years since Chairman Martin initiated a proceeding regarding the programming industry's bundling practices. It has been three years since Chairman Genachowski first solicited comment on petitions seeking reform of the retransmission consent rules. Over that three year period, there have been more than 150 instances in which local broadcasters have denied access to their signals to cable and satellite providers, resulting in service disruptions impacting tens of millions of Americans across the country. While the blackouts impacting major metropolitan markets like Boston and New York have grabbed most of the media attention, it is the rural areas, like those in the states you both represent, that are most frequently impacted.

In our view, the Commission has used its assertion that it lacks the authority to take effective action as an excuse for doing nothing. Many of us in the industry have hired the best legal minds in the country to examine the question of whether the Commission's existing statutory authority is broad enough to permit it to adopt meaningful reforms, and their advice has been that the Commission does have the necessary authority. That conclusion has been confirmed by public interest groups and other outside organizations that are independent of cable and satellite companies. Yet, the Commission under both Chairman Martin and Chairman Genachowski has chosen to hide behind its claimed lack of authority, even going so far as to disregard the written statements of your predecessors, Senators Inouye and Stevens, who expressly concluded that the Commission had the power under the 1992 Cable Act to take specific actions to protect consumers when battles between distributors and broadcasters threaten to interrupt service.

The American public needs and deserves a Federal Communications Commission that is dedicated to protecting video service subscribers against the programmers' anti-consumer practices. I appreciate your attention to the matters discussed above and look forward to working with you to achieve that goal.

Sincerely,



cc: Members of the U.S. Senate Commerce Committee
FCC Chairman and Commissioners